

## REMARKS

### (A) STATUS OF THE CLAIMS

Claims 1-10 and 12 -19 are pending in the application.

Claims 1, 3, 5-7, 13, 16 and 19 have been amended.

Claims 2, 4, 8-10, 12, 14, 15, 17 and 18 were previously presented.

Claim 11 has been canceled.

### (B) RESPONSE TO REJECTION UNDER 35 U.S.C. § 112

The Examiner rejected claims 1, 3, 5, 6, 7, and 13-19 under 35 U.S.C. 112, first paragraph, for failing to comply with the written description requirement. Accordingly, while in the amended claim set, independent claims 1, 3 and 6 and dependent claims 5, 7 and 13 have been amended and reflect the language of claims 8, 10 and 12, Applicant wishes to make clear on the record that these claims include embodiments having a subsequent closed position/subsequent closed positions different than an initial closed position. The amendment to claims 1, 3, 5, 6, 7 and 13 has removed reference to "one of the closed positions" and has replaced it with "a closed position".

Dependent claims 16 and 19 have been amended to avoid the '112 rejection.

The amendments to the claims are supported in the description in following par. 46 of the specification:

**[0046]** When the internal slider 26 returns to the closed position, it may return to either its initial position or to one in which the top ring 70 is lower than in the initial position, i.e. closer to the ledge 46, provided that there is a seal between the internal slider 26 and the external slider 24, and no fluid can pass through the fitment 20. The closed position referred to in the description includes both such positions in which the internal slider 26 is moved away from the valve seat 54 as described above, and where no fluid can pass through the fitment 20. (Emphasis added)

In regard to the rejection under 35 U.S.C. 112, second paragraph, in respect to the internal slider having multiple closed positions, Applicant points out

that a plurality of closed positions is also shown in the Figures. The use of an embodiment of the double slider valve fitment of the present invention is shown in Figures 8 to 10E. Figure 8 illustrates an initial position, wherein the valve is closed. Figure 10C shows an open position where the internal slider has been pushed inwardly by the dispensing connector. Figure 10E shows the position of the fitment after removal of the dispensing connector: the internal slider has moved outwardly by the action of the deformable members. As can clearly be seen by comparing Figures 8 and 10E, the internal slider has moved to a closed position *different* than the initial closed position.

Further, given the design of the fitment and the suitable materials from which it can be made (in particular "any suitable plastic" - see paragraph[0075]), a plurality of closed positions is an inherent feature of the design and would be understood as such by a person skilled in the art. Sealing of the fitment (i.e. closing of the fitment) is a result of wedging of a peripheral portion of the internal slider against the side wall of the external slider. Where this wedge seal forms will vary due to various factors e.g. the temperature of the fitment and the extent of wear. The nature of the seal and the potential impact of these factors on the position of the seal would be readily apparent to a person skilled in the art.

Accordingly, it is requested that the rejections under 35 U.S.C. 112 be withdrawn.

**(c) RESPONSE TO REJECTION UNDER 35 U.S.C. § 102(B)**

Claims 1-3, 5-10 and 12-19 were rejected under 35 U.S.C. 102 (b) as being anticipated by US Patent 4,564,132 to Lloyd-Davies.

The design of Lloyd-Davies is substantially different from the design of the present invention. The Examiner points to part 47 of Lloyd-Davies as being an external slider movable axially within the spout of a container. Applicant respectfully points out that part 47 of Lloyd-Davies is not movable within the spout and, in fact, is essentially a plug that sits on top of spout 13. This is clearly evident when looking at Figure 3.

Further, the Examiner points to parts 63 and 89 of Lloyd-Davies as being a plurality of deformable members. Applicant respectfully points out that both parts 63 and 89 are non-deformable ribs. Part 63 is merely a sealing rib which enables a seal between member 61 and rib 63 (see column 5, lines 49-52). There is no teaching or suggestion that rib 63 is deformed during operation of the fitment. Further, as is clear from the Figures, even were this rib to be deformable, there is no way that it is biased in the open position so as to return the internal slider to a closed position upon removal of the dispensing connector. Rib 89 serves to secure valve member 61 within the container valve housing and ensures sealing engagement between valve member 61 and rib 63 (see col. 6, lines 39-46). There is no teaching that rib 89 is deformable. Further, even if rib 89 were deformable, clearly there is no way that it would be biased in the open position so as to return an internal slider to a closed position upon removal of a dispensing connector.

Accordingly, as Lloyd-Davies does not teach all the elements of the present invention, Applicant submits that the rejected claims are novel and the rejection based on Lloyd-Davies should be withdrawn.

**(D) RESPONSE TO REJECTION UNDER 35 U.S.C. § 103**

Claim 4 was rejected under 35 U.S.C. 103 (a) as being unpatentable over Lloyd-Davies, supra, in view of US Patent 5,901,761 to Rutter et al.

As pointed out above, Lloyd-Davies does not disclose substantially all the structure and functionality of the invention. The Examiner points to Rutter et al. as teaching an external slider having apertures defined by a plurality of radially spaced posts. As pointed out above, Lloyd-Davies does not teach an external slider at all and as can be seen in Figure 4 of Lloyd-Davies, plug 47 has a solid bottom with apertures 53 therein. There is no teaching or motivation to redesign the structure of plug 47 to replace these apertures with radially spaced posts, as such an arrangement would, in fact, permit no flow at all.

**CONCLUSION**

In view of the above remarks, Applicants respectfully submit that stated grounds of rejection have been properly traversed, accommodated, or rendered

moot and that a complete response has been made to the Final Office Action.

Therefore, Applicants believe that the application stands in condition for allowance with withdrawal of all grounds of rejection. A Notice of Allowance is respectfully solicited. If the Examiner has questions regarding the application or the contents of this response, the Examiner is invited to contact the undersigned at the number provided below.

Should there be a fee due which is not accounted for, please charge such fee to Deposit Account No. 501447.

Respectfully Submitted,

BY:

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